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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,962	09/27/2001	Craig Paulsen	IGT1P267/P000577-001	2536

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EXAMINER	
D'AGOSTINO, PAUL ANTHONY	

ART UNIT	PAPER NUMBER
3716	

NOTIFICATION DATE	DELIVERY MODE
12/21/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

Office Action Summary	Application No.	Applicant(s)	
	09/964,962	PAULSEN ET AL.	
	Examiner	Art Unit	
	Paul A. D'Agostino	3716	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 June 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *27,28,30,32,33,37,44-56,63-73,77-82,85 and 86* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *27-28, 30, 32-33, 37, 44-56, 63-73, 77-82, and 85-86* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This responds to Applicant's Arguments/Remarks filed 06/15/2010. Claims 27-28, 30, 32-33, 37, 44-47, 49, 51, 53, 63-65, 69-73, 77-79, 82, and 86 have been amended. Claims 1-26, 29, 31, 34-36, 38-43, 57-62, 74-76, and 83-84 stand cancelled. Claims 27-28, 30, 32-33, 37, 44-56, 63-73, 77-82, and 85-86 are now pending in this Application. This Non-Final Office Action supersedes the Office Action mailed 8/16/2010 and resets the clock on Applicant's response time.

Information Disclosure Statement

1. The information disclosure statement filed July 20, 2010 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the lined through other documents lack pagination so as to ensure Office received all pages of cited documents and/or date of publication as required. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re- submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 27-28, 30, 32-33, 37, 44-56, 63-73, 77-82 and 85-86 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The disclosure states in part that the controller being programmed to choose indicia designed to attract a player to the slot machine such as gaming instructions so as to be preprogrammed to display an attract sequence or simulated game play as stated in paragraph 25; however, the specification does not reasonably convey to an artisan at the time of filing that inventors possessed the invention regarding dynamically changing the indicia displayed on the gaming apparatus to dynamically change the indicia so as to be reprogramming indicia on reel(s).

3. Claims 27-28, 30, 32-33, 37, 44-56, 63-73, 77-82 and 85-86 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. This holding is maintained from prior action as reiterated herein.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold in view of Universal Display: FOLED or Business Week 2000: The Tube. This holding is maintained from action mailed Sep 20, 2007 incorporated herein for invention as amended to extent claiming same invention as clarified below. Response to remarks is provided below and incorporated herein.

Response to Arguments

7. Applicant's arguments, see page 14-15, filed June 15, 2010, with respect to 112(1 st paragraph) have been fully considered and are persuasive. The rejection of claims 27-60 and 63- 80 has been withdrawn regarding plurality of portions as pixels and infinite or virtually unlimited no longer being claimed.

8. Applicant's arguments filed June 15, 2010 have been fully considered but they are not persuasive. No specific reply to holding (pages 3-5 and 7-8 of action mailed Mar 16, 2010 regards reprogramming issue) regarding dynamic reprogramming of indicia displayed as particularly claimed was provided in cited response and thus reply fails to comply with 37 CFR 1.111 due to not responding to all issues in prior action. However, as a service to Applicant, the Office has treated the merits of claims in that the Office maintains holding as reiterated next. The Office maintains from prior action that dynamic reprogramming of indicia displayed is not supported by original specification to convey to an artisan at time of filing that inventor(s) possessed the invention to reprogram the indicia displayed on a game machine in so far as the language 'dynamically change the indicia displayed.., flexible display' (claims 27, 32, 37, 44 and 77) that continues to include to dynamically reprogram indicia so as to change indicia on reel thereby such as to change theme to relate to a casino, gaming machine, gaming area or game show for its breadth. Agreeably, the specification (paragraph 25) does reasonably convey that inventors possessed changing indicia displayed on gaming machine such as to display attract sequence or simulation of game play where the instructions were pre-programmed to perform such function as stated in prior action and above. However, the Office maintains from prior action that the claim language to 'dynamically change the indicia displayed', 'programmed to change game play indicia on the gaming apparatus (clm 33, 44) and 'programmed to change the game play indicia displayed' (clms 69-71) regards dynamic reprogramming of the indicia on reel where the written description does not reasonably convey inventors possessed the invention at time of filing

regarding dynamic reprogramming of indicia on reels. The Office previously acknowledged programming of computer as a gaming device was known to exist prior to instant application in consideration of 'to dynamically change' regards reprogramming (supra); but, the Office reiterates that Applicant is reminded of their duty to disclose their invention at time of filing so as to place the public in possession of what they invented. To be clear, the cited claim language continues to fail to reasonably convey that inventors possessed the invention. Although reply filed Dec 8, 2008 on page 15 cited paragraph 26 that states in part that controller 'may be programmed to dynamically change the chosen indicia before, during or after game play to offer the user a unique game play experience', the Office reiterates that the cited portion as would have been interpreted by an artisan, regards selection of indicia for displaying outcome or game result selected where the timing of selection of outcome [indicia from predefined mapped reel] is defined as prior, during or after but the cited paragraph does not regard reprogramming indicia mapped on virtual reel as alleged or implied. Furthermore, to extent that remarks allege dynamic reprogramming of mapped indicia is taught, the Office notes reprogramming indicia of a mapped virtual reel game play is not permitted in gaming jurisdictions as known by an artisan of gaming whereby such remapped or dynamically changed indicia on a gaming machine thereby lacks utility (as evidence thereof see 6464581 @ 8:63-66).

9. Further, the Office maintains that there is insufficient support to reasonably convey to an artisan that applicants possessed invention regarding dynamically changing indicia so as to reprogram indicia on reel(s) since there is no discussion

therein of such reprogramming of reel(s) as would have been interpreted by an artisan. As maintained from prior actions reiterated next, paragraph 23 does not state with specificity as to what information is changed to alter play by the signals to put public in possession of invention where the signals may regard change to payout of pay table [payout amount for a combination] to encourage play during off-peak hours or change minimum wager limits, alter speed of rotation of reels during peek hours to speed play, but there is no link between the signals in paragraph 23 to alter play to pertain to changing indicia on reels so as to [remotely] dynamically change indicia so as to reprogram indicia on reel(s). However, the specification fails to state with clarity what the signals change to alter play and thus fails to reasonably convey that the applicant had possession of the invention regarding to dynamically change the indicia.

10. Applicant's arguments with respect to claims 27-28, 30, 32-33, 37, 44-56, 63-73, 77-82 and 85-86 have been considered but are moot in view of the new ground(s) of rejection. To clarify the record in maintaining prior combination, the invention, as amended, no longer claims displaying an infinite number of indicia and where as noted in prior actions, art was suspended from being applied due to 'infinite' issue. The amended claims regards gaming apparatus having same structure performing same function as previously claimed as treated in aforementioned Office action, but where claims no longer includes displaying an infinite number of indicia.

11. Next, as would have been interpreted by an artisan, the Office maintains that the combination of Griswold with Universal Display: FOLED or Business Week 2000: The Tube when taken as a whole at a time prior to invention would have suggested to an

artisan the claimed invention regarding the particular flexible display by substituting one display for the other as previously held. Specifically, where alternatively, the language 'dynamically change the indicia displayed' [and similar language] regards the selected/determined indicia to be display from indicia on reel, Griswold, as evidence in record, shows gaming apparatus (abstract, 2:14- 3:59, figs 1-6B) having a housing (ref 12); value-input device (ref22, 24); an input device to receive a wager (ref 20, 22, 24); a display driver configured to control displayed indicia being electrically connected to display panel and configured to receive instructions from the controller and is mounted to said reel such that the display driver rotates when reel rotates (abstract, 2:14- 3:59, 6:6-42, 7:38-46, 9:38-44, figs 1-6B); a controller coupled to value input device, input device, and display driver, the controller programmed to choose initial indicia to display on display panel, instruct display driver to display chosen indicia, detect a deposit of medium of value, detect a wager, determine game play indicia, instruct the display driver to display the game play indicia, cause motor to spin reel, determine a game outcome, dynamically change the indicia displayed on at least one display panel from game play indicia to game outcome indicia, cause motor to stop said reel according to said determined outcome and determine a value associated with an outcome of wager-based game played on the gaming apparatus (abstract, 2:14-3:59, 6:6-30, 7:38-9:44, figs 1-6B); a reel rotatable about an axis having a support mechanism with an outer circumference, a display panel mounted on outer circumference and configured to display indicia (abstract, 2:14-3:59, figs 1-6B, ref 201, 301); a motor with a slip ring drum for rotating said reel about said axis and operatively coupled to controller (ref 317,

319). The initial indicia is indicia at start of game, game play indicia regards indicia while spinning and game outcome indicia is outcome of game taught by Griswold (abstract, 2:14-3:59, 6:6-30, 7:38-9:44, figs 1-6B).

12. However, Griswold lacks the type of display being a flexible LED display or flexible LCD. In related references, Universal Display: FOLED or Business Week 2000: The Tube discloses use of flexible LED display or flexible LCD, respectively, as display devices that display indicia. Universal Display: FOLED or Business Week 2000: The Tube is each analogous art for either being in the field of applicant's endeavor or, being reasonably pertinent to the particular problem with which the applicant was concerned. See In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The level of ordinary skill in the art is as reflected by the references and art of record. Because Griswold, Universal Display: FOLED and Business Week 2000: The Tube each regard displays that display indicia, in consideration of US Supreme Court decision with regards to KSR that 'known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art', it would have been obvious to an artisan at a time prior to the invention to substitute one display for the other to yield the predictable result of displaying indicia on a flexible LED or flexible LCD display. In essence, the type of display fails to critically distinguish over the combination. Not believed necessary for holding since Griswold shows programming to display indicia on display and corresponding level of skill for such programming to display indicia; however, as further evidence regarding level of ordinary skill and

programming to display indicia on reels using LED or LCD display see prior art stated in paragraph 2-7 and 9 of PG Pub 20030060269; while as reiterated Universal Display: FOLED regards LED display while Business Week 2000: The Tube regards LCD. Other features are maintained as treated in aforementioned holding cited.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571)270-1992. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul A. D'Agostino/
Examiner, Art Unit 3716